

EXECUTIVE OFFICE,
AUSTIN, Texas, 24th January, 1856. }

*Gentlemen of the Senate
and of the House of Representatives :*

I return herewith, to the Senate "An Act for the relief of certain Sheriffs therein named."

This act requires the Comptroller to audit the account of Jacob B Harrell, Sheriff of Williamson county, for the sum of eighty-seven dollars, expenses incurred by him in conveying Massillon Farley, a convict to the Penitentiary; and also the claim of John A Vernon, late Sheriff of Nueces county, for the sum of one hundred and twenty-five dollars, expenses incurred by him in conveying George Green and John Hunter to the Penitentiary, and also requires the State Treasurer to pay the same. The 9th Section of an "Act to establish a State Penitentiary," approved 13th March, 1848, (Hartley's Digest, Article 2672) establishes what the compensation of Sheriffs and guards shall be for conveying prisoners to the Penitentiary, and makes the Superintendent of the Penitentiary the Judge of the number of guards necessary to be employed, and also provides that all such accounts shall be paid on the certificate of the Superintendent. The accounts of this description were audited by the Comptroller on the certificate of the Superintendent and paid at the State Treasury from the organization of the Penitentiary until the 16th of February, 1852, when an act was passed authorizing the Directors of the Penitentiary to appoint a purchasing agent, who was authorized to receive from the Treasury the appropriations for the Penitentiary and disburse them. Since the appointment of this agent all accounts of this description are paid by him at Huntsville, on the certificate of the Superintendent, and no account of them is returned to the Comptroller.

The presumption is that these two Sheriffs presented their accounts, for conveying these prisoners, to the Superintendent, when they delivered the prisoners, had them certified by him and paid by the disbursing agent. Such is the course required to be pursued under the laws. I have no means of ascertaining whether this was done, but it certainly was the duty of these persons to produce the certificate of the disbursing agent that these accounts were never paid by him, before they asked the Legislature to pay them. When the laws have made ample provision for persons to obtain the payment of their claims against the State without the interposition of the Legislature, they ought to avail themselves of those pro-

visions, and not be encouraged to come to the Legislature for relief. The Legislature has not the same means here to enquire into the justice of such claims as the Superintendent has, who knows how many guards accompany the Sheriff, and by seeing the Prisoner can form an estimate what number of guards were necessary. Besides, the Legislature has not the means here of ascertaining whether the accounts have not previously been paid by those whose duty it was to pay them. I have proceeded upon the assumption, that these accounts were for the regular and legal compensation of these Sheriffs for conveying these prisoners to the Penitentiary, and cannot, therefore, approve of this act, because I have no evidence before me that they have not been paid by the Disbursing Agent, at Huntsville, whose duty it was to pay them. If, however, these accounts are for extra compensation, over and above that which the law prescribes for such services performed by sheriffs, then I feel constrained to withhold my approval from it, because it will be a violation of the 7th Section of the 7th Article of the Constitution of this State.

The Legislature has, as before stated, provided by law, what the compensation shall be to sheriffs for carrying prisoners to the Penitentiary, and the Section of the Constitution referred to declares, that they shall not grant extra compensation to any officer, agent, servant, or public contractor after such service shall have been performed.

This act is therefore returned to you for reconsideration.

E. M. PEASE.

On motion of Mr Potter, laid on the table until Monday next.